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OFFICE OF PETITIONS

In re Application of :
Agarwal, et al. :
Application No. 10/528,370 : **ON PETITION**
Filed: June 29, 2006 :
Attorney Docket No. W002.PAT-22 :
For: SYSTEM AND METHOD FOR THE
MANUFACTURE OF HYDROGEN
CYANIDE AND ACRYLONITRILE WITH
SIMULTANEOUS RECOVERY OF
HYDROGEN

This is a decision on the petition, filed November 5, 2010 (certificate of mailing date November 2, 2010), under 37 CFR 1.47(a). The petition will be treated as a petition under CFR 1.183, requesting waiver of 37 CFR 1.67, which requires an inventor to execute a supplemental declaration to correct ambiguities/errors with respect to his/her information in the original declaration.¹

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.67" and may include an oath or declaration executed by the legal representative of the deceased inventor. **Failure to respond will result in abandonment of the application.**

While this waiver petition is not a petition under 37 CFR 1.47, it is evaluated in much the same way a Rule 47 petition is. Therefore, a grantable petition requires:

- (1) a petition including proof of the pertinent facts establishing that the legal representative of the deceased inventor refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or declaration executed by the available joint inventor(s),

¹ Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating a legal representative of the deceased inventor's refusal or unavailability to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

- (3) a petition fee, and
- (4) the last known address of the legal representative of the deceased inventor.

This petition lacks item (1).

As to item (1), petitioners have failed to establish that the legal representative of the deceased inventor has constructively refused to sign the declaration. When it is concluded that a legal representative of a deceased inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. **If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.**

The statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. MPEPE 409.03(d)

Petitioners assert, "On several occasions since the receipt of the Office Action, attempts have been made to reach Mrs. Agarwal by mail at her last known mailing address, 3313 Reynolds, Laramie, Wyoming 82702. To date, no responses or replies have been received."

The showing in the present petition lacks any documentary evidence to support facts alleged in the petition. The Office would like to see copies of the letters to the legal representative of the deceased inventor. Please submit (1) copies of the letters presenting the legal representative of the deceased inventor with the application and papers for her signature and (2) copies of the letters reminding her of the necessity to return an executed declaration. Please confirm that the mailings have not been returned to sender.

Regarding fees, petitioner submitted \$200.00. The current Rule 183 petition fee is \$400.00. Accordingly, deposit account no. 50-2084 will be charged the \$200.00 balance due.

Further correspondence with respect to this matter should be addressed as follows:

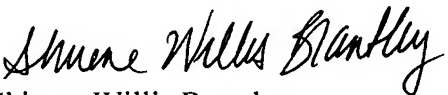
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Telephone inquiries should be directed to the undersigned at (571) 272-3230.


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Office of Petitions